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CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence, totaling Six (6) pages including recited attachments, is being facsimile transmitted to the United States Patent and Trademark Office at facsimile no.: 703-872-9306 (Central number)) on the below date:

Date: February 1, 2005 Name: Deanna L. Hester Signature: Deanna L. Hester

BRINKS HOFER GILSON & LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Valery A. Petrushin
Appln. No.: 09/833,301
Filed: April 10, 2001
For: DETECTING EMOTION IN VOICE SIGNALS IN A CALL CENTER

Examiner: Benny Quoc-Tieu
Art Unit: 2642

Attorney Docket No: 10022/151

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

☒ Reply Brief to Examiner's Answer (Four (4) pgs.); Transmittal (in duplicate)
☐ Return Receipt Postcard

Fee calculation:

☒ No additional fee is required.
☐ Small Entity.
☐ An extension fee in an amount of $_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
☐ A petition or processing fee in an amount of $_____ under 37 C.F.R. § 1.17(_____).
☐ An additional filing fee has been calculated as shown below:

	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Small Entity Rate	Small Entity Add'l Fee	or	Not a Small Entity Rate	Not a Small Entity Add'l Fee
Total		Minus			x $25=			x $50=	
Indep.		Minus			x 100=			x $200=	
First Presentation of Multiple Dep. Claim					+$180=			+ $360=	
					Total	$		Total	$

Fee payment:

☐ A check in the amount of $_____ is enclosed.
☐ Please charge Deposit Account No. 23-1925 in the amount of $. A copy of this Transmittal is enclosed for this purpose.
☐ Payment by credit card in the amount of $_____ (Form PTO-2038 is attached).
☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

FEB 1, 2005
Date

Respectfully submitted,

Sanders N. Hillis (Reg. No. 45,712)

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Deanna Hasler

PATENT
Our Case No. 10022/151

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)
	) Group Art Unit 2642
Valery A. Petrushin	)
	) Examiner: Benny Quoc Tieu
Serial No.: 09/833,301	)
	)
Filed: April 10, 2001	)
	)
For: DETECTING EMOTION IN VOICE SIGNALS IN A CALL CENTER	)

REPLY BRIEF TO EXAMINER'S ANSWER

MAIL STOP APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This reply brief is in response to the Examiner's Answer mailed December 1, 2004.

REMARKS

Deficient Summary of Invention (Item 5)

The Examiner's Answer mailed December 1, 2004 has apparently asserted that the Summary of Invention included in the Appeal Brief filed on September 15, 2004 is "deficient." (Page 2, item 5) Applicant respectfully submits that the Summary of Invention (Section IV. of the Appeal Brief) is a true and accurate summary description that is fully supported by the specification, and is therefore not "deficient."

Grounds of Rejection (Item 9)

35 U.S.C. § 112 first paragraph rejection of Claims 2-4

The Examiner's Answer mailed December 1, 2004 has maintained the rejection of Claims 2-4 pursuant to 35 U.S.C. § 112 first paragraph. The Examiner's response has once again asserted that "Applicant's specification is silent on a first portion of the conversation being prerecorded and that first portion being tested *before* a second portion *is to be* recorded." (emphasis Applicant's) As discussed previously by Applicant, this narrow reading of Claims 2-4 inherently includes an additional limitation in the Claims that is simply not present. Applicant respectfully asserts that the limitation of the first portion being tested in sequence before the second portion is recorded is not part of Claims 2-4.

35 U.S.C. §102(e) rejection of Claims 2-4

The Examiner's Answer mailed December 1, 2004 has provided an "effective date" of January 27, 2004 for claim amendments filed on that day. The patent application at issue was filed on April 10, 2001 and takes priority from U.S. Patent Application Serial No. 09/388,909 filed on August 31, 1999, which is now U.S. Patent No. 6,275,806. Apparently, the

amendment filed January 27, 2004 is being treated as a continuation-in-part patent application. Applicant is unaware of any provision in the Rules of the U.S. Patent and Trademark Office allowing such treatment of a claim amendment filed in a pending patent application. Applicant respectfully asserts that pursuant to 35 U.S.C. § 120, the present application is entitled to the effective filing date of August 31, 1999.

Response To Argument (Item 10)

Applicant rests on the arguments previously made in the Appeal Brief filed on September 15, 2004 with the exception of the comments on page 8 second paragraph of the Examiner's Answer mailed December 1, 2004. In the second paragraph of page 8, it has been asserted that the teachings in the specification of U.S. Patent No. 6,542,602 (prior art of record) is "contrary" to any other interpretation than that described in the Examiner's Answer. Applicant respectfully disagrees since as previously discussed in an after final response mailed June 18, 2004, the specification of U.S. Patent No. 6,542,602 does in fact include such "contrary" teachings. Specifically, "Monitoring system 16 preferably stores captured audio and screen data to one or more storage media 26 and provides captured audio and screen data to one or more supervisor workstations 18 either in *real-time* or later in a playback mode where audio, screen data, and other data may be *monitored separately or simultaneously*." (U.S. Patent No. 6,542,602 paragraph bridging columns 6 and 7) (emphasis Applicant's)

Conclusion

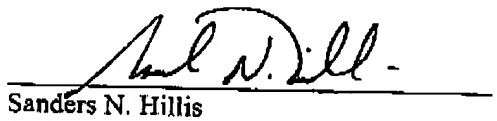
In summary, the 35 U.S.C. § 112 first paragraph rejection of Claims 2-4 should be overturned. Claims 2-4 are fully enabled by the specification. In addition, the specification does enable a person skilled in the art to make and use the invention described in Claims 2-4.

The 35 U.S.C. §102(e) rejection of Claims 2-4 should also be overturned since the effective filing date of an application cannot be determined arbitrarily based on the date that Claims were submitted by amendment to the U.S. Patent Office.

Thus Applicant respectfully requests the Examiner, or the Board of Appeals in its ex parte capacity, to indicate that Claims 2-4 are entitled to the effective filing date, and are allowable subject to the Request For Interference filed on January 22, 2004.

Dated: February 1, 2004

Respectfully submitted,



Sanders N. Hillis
Reg. No. 45,712
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
One Indiana Square, Suite 1600
Indianapolis, Indiana 46204
Telephone: 317-636-0886
Facsimile: 317-634-6701